

Commodity Credit Corporation, USDA

§ 1427.1308

§ 1427.1305 Payment application and deadline.

(a) Payments in this subpart shall be made available only to eligible first handlers of cottonseed based on information provided on a Cottonseed Payment Program Application and Certification.

(b) The application deadline shall be 45 calendar days after the rules in this subpart become effective. A further extension of application time may be announced by CCC. Payment applications must be received by the program application deadline announced by CCC. Applications received after such application deadline will not be accepted for payment.

(c) The Cottonseed Payment Program Application and Certifications may be obtained from the CCC as announced by press release. In order to participate in the cottonseed payment program in this subpart, first handlers of cottonseed must execute and submit to CCC according to announced instructions the Cottonseed Payment Program Application and Certification.

§ 1427.1306 Available funds.

The total available program funds for the 2005-crop cottonseed program provided for in this subpart shall be \$15 million.

§ 1427.1307 Applicant payment quantity.

(a) The applicant's payment quantity of cottonseed will be calculated by the applicant and submitted on the Cottonseed Payment Application and Certification for approval by CCC.

(1) An applicant must be an eligible gin to which a producer delivered 2005 cotton and the applicant's payment eligibility will be based on the determination of the total amount of 2003 crop lint deliveries by cotton producers in eligible counties.

(2) The 2003 crop lint delivery determination will be made by the applicant for each eligible county producer by producer, based upon producer certification, ginning records, or other relevant information as applicable. If the producer delivered 2003 crop cotton to a gin(s) different from the gin that received 2005 crop deliveries, the 2005 gin shall contact the other gins for produc-

tion information or obtain other proof of the eligible quantity from the cotton producer so as to make or verify the calculation called for in paragraph (a) of this section.

(3) If the producer delivered cotton to more than one 2005 gin, each gin shall be an applicant. If the producer did not deliver cotton to the same gins in 2003, the applicants shall divide the total 2003 production, obtained according to paragraph (a)(2) of this section, equally between each applicant gin.

(4) If the producer did not grow any 2005 crop cotton in the eligible county, the applicant shall not apply for payment on behalf of the producer.

(5) If the producer grew 2005 crop cotton but did not produce 2003 crop cotton, the producer shall be considered a new producer. In this case, the applicant shall compute an assumed 2003 lint delivery amount by multiplying the 2003 USDA National Agricultural Statistics Service (NASS) county average yield for the applicable county times the producer's 2005 cotton acreage in the eligible county. Proof of cotton acreage may be obtained by the applicant from producer certification, FSA county office acreage reports, or crop insurance records. If the NASS county average yield is not computed for the applicable county, the applicant shall use the NASS county average yield for the nearest cotton producing county with the highest NASS county average yield.

(b) The applicant's lint eligibility will be calculated individually with respect to all eligible cotton producers and those individual eligibilities for the gin will then be added together to determine the total lint eligibility of the gin.

§ 1427.1308 Total payment quantity.

(a) The total quantity of 2005-crop cottonseed eligible in this subpart shall be based on the total payment quantity of cottonseed as determined under this subpart for which timely applications are filed. Eligible cottonseed for which no application is received according to the announced application instructions shall not be included in the total payment quantity of cottonseed.

§ 1427.1309

(b) The total payment quantity of cottonseed (ton-basis) shall be calculated by CCC by multiplying the weight of cotton lint (ton-basis) for which payment is requested by all applicants, as approved by CCC, by the Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, excluding the highest and lowest years' production, as determined by CCC for the 5 years preceding the 2005 crop.

§ 1427.1309 Payment rate.

The payment rate (dollars per ton) for the purpose of calculating payments made available in accordance in this subpart shall be determined by CCC by dividing the total available program funds, less an amount reserved for approved corrections, by the total eligible payment quantity of cottonseed. However, in no event may the total payment to an eligible applicant exceed the national average price of 2005 crop cottonseed as determined by CCC, or \$98 per ton, multiplied by the applicant's total eligible payment quantity.

§ 1427.1310 Payment calculation and form.

(a) Payment in accordance in subpart shall be determined for individual applicants by multiplying:

(1) The payment rate as determined in subpart §1427.1309 by

(2) The eligible payment quantity of the applicant was determined in §1427.1308 and other provisions in this part.

(b) After receipt of the application for payment, CCC will issue payments to the applicant by electronic funds transfer to the applicant's account except that applicants may request payment be made by mailed check.

§ 1427.1311 Liability of first handler.

(a) If any person makes any erroneous or fraudulent representation in obtaining a cottonseed payment in this part, or in connection with such a payment engages in a scheme or device that tends to defeat the purposes of this program, the person shall be liable to CCC for the amount of the payment and interest on such payment as determined by CCC. Such remedy will be in

7 CFR Ch. XIV (1-1-08 Edition)

addition to whatever additional remedies may be allowed by law.

(b) If more than one person executes a program payment application with CCC on the same quantity and payments are made there under, each such person shall be jointly and severally liable for any violation of the terms and conditions for any payment made to anyone under that application or for any refund due from any person signing that application. Such liability shall remain until payment in full is made of any such refund and its related charges.

(c) If a person receives a program payment in excess of the amount authorized in this subpart, that person shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

(d) For three years after the date of the application for 2005-crop payments, the applicant shall keep records, including records supporting the quantity of cottonseed for which payment was requested, and furnish such information and reports relating to the application to CCC as requested. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payment received, plus interest thereon, as determined by CCC. In the event of a controversy concerning payments, records must be kept for such longer period as may be specified by CCC until such controversy is resolved. Destruction of records at any time is at the risk of the applicant.

PART 1430—DAIRY PRODUCTS

Subpart A—Price Support Program for Milk

Sec.

1430.1 Definitions.

1430.2 Price support levels and purchase conditions.

Subpart B—Milk Income Loss Contract Program

1430.200 Applicability.

1430.201 Administration.

1430.202 Definitions.